

**WATER POLLUTION CONTROL BOARD—
DUTIES****CHAPTER 382****H. B. No. 785**

An Act to amend Sections 3 and 10 of the State Water Pollution Control Board Act, Chapter 42, page 156, Acts of the 57th Legislature, 1st Called Session, 1961, compiled as Article 7621d, Vernon's Texas Civil Statutes, to clarify the duties, responsibilities and authority of designated personal representatives of Board members; to provide for Board membership; to clarify the responsibilities of the Railroad Commission; providing for severability; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. That Section 3 of the State Water Pollution Control Board Act, Chapter 42, page 156, Acts of the 57th Legislature, 1st Called Session, 1961, compiled as Section 3 of Article 7621d, Vernon's Texas Civil Statutes, is amended ⁶³ to read as follows:

"Section 3. (a) There is hereby created and established a State Water Pollution Control Board which shall be composed of seven (7) members. The Board is directed to carry out the functions and duties conferred on it by this Act. The Governor shall appoint by and with the advice and consent of the Senate of Texas, three (3) members to the State Water Pollution Control Board. One (1) shall be appointed for a two-year term, one (1) for a four-year term, and one (1) for a six-year term. Thereafter, all appointments by the Governor to fill a vacancy at the end of a term shall be for a full six-year term. The appointments by the Governor shall be made as follows: One (1) member shall represent the agriculture and soil conservation interests; one (1) member, the manufacturing industry; and one (1) member, the general public interests. The present members of the Board appointed by the Governor shall continue to serve the unexpired portions of their respective terms of office, or until their successors are appointed and have qualified.

"(b) Vacancies occurring in any such office on the Board filled by appointment by the Governor during any term shall, with the advice and consent of the Senate, be filled by appointment by the Governor, which appointment shall extend only to the end of the unexpired term.

"(c) The seven (7) members of the Board shall receive no fixed salary for duties performed as members of the Board, but each member, excepting those representing the specified State agencies, shall be allowed, for each and every day in attending meetings of the Board, the sum of Twenty Dollars (\$20) including time spent in travel to and from such meetings, and all members shall be allowed traveling and other necessary expenses while in the performance of official duty to be evidenced by vouchers approved by the Executive Secretary. The members of the Board appointed by the Governor and confirmed by the Senate shall qualify by taking the Constitutional Oath of Office before an officer authorized to administer an oath within this State, and, upon presentation of such oath, together with the certificate of appointment, the Secretary of State shall issue commissions to them, which shall be evidence of their authority to act as such. In addition to the three (3) members appointed by the Governor as provided herein, the Board shall also consist of the following State officers, each

63. Vernon's Ann.Civ.St. art. 7621d, § 3.

of whom shall be a member of said Board during the time that he is serving in such other official capacity, to wit: the Executive Director of the Texas Water Development Board, the State Commissioner of Health, the Executive Director of the Texas Parks and Wildlife Department, and the Chairman of the Railroad Commission of Texas, each of whom shall perform the duties required of a member of the Board by this Act in addition to those duties required of him in said other official capacities.

"(d) Each ex officio member of the Board listed in subsection (c) above, is authorized to delegate to a personal representative from his office the authority and duty to represent him on the Board, but by such delegation a member shall not be relieved of responsibility for the acts and decisions of his representative. The designated personal representative, while engaged in the discharge of official Board duties on behalf of and as authorized by such member, stands in the place and stead of such member for purposes of attending Board meetings, and for purposes of participating in and voting on matters arising at Board meetings and hearings. The designated personal representative may exercise all of the powers, duties and responsibilities of the ex officio member, including the taking of testimony in any hearing called by the Board under the provisions of Section 4(d), paragraph (2); may receive reimbursement for traveling and other necessary expenses, while engaged in the performance of official Board business in the same manner as the one he represents, under the provisions of subsection (c) above; and may serve as either chairman or vice-chairman of the Board under the provisions of Section 3(f).

"(e) Actual and necessary travel and other expenses incurred by the four (4) ex officio members, or their designated personal representatives, in the discharge of their official duties as members of the Board shall be paid out of any funds made available to the agency of such ex officio member or his designated personal representative for the purposes of this Act. Employees of the Board shall receive such traveling expenses as may be authorized by the Legislature.

"(f) The Board shall elect a chairman and a vice-chairman from its members whose terms of office shall be for two (2) years commencing on February 1st of each odd-numbered year hereafter. At the first meeting of the Board, the chairman and vice-chairman shall be elected to serve until February 1, 1967. The chairman, or in his absence, the vice-chairman, shall preside at all meetings of the Board and perform the other duties hereinafter prescribed. The Board shall meet at regular intervals as may be decided upon by majority vote of the Board. Special meetings may be called by the chairman upon his own motion and must be called by him upon receipt of a written request therefor signed by two (2) or more members of the Board. A majority of said Board shall constitute a quorum to transact business. The Board shall have the power to make all necessary rules for its procedure and shall have a seal, the form of which it shall prescribe.

"(g) After consultation with the Board, the State Commissioner of Health shall designate an employee of the Texas State Department of Health in the Water Pollution Control Division to serve as Executive Secretary of the Board. When so designated, such employee shall act as Executive Secretary. The Executive Secretary shall keep full and accurate minutes of all transactions and proceedings of said Board and perform such duties as may be required by the Board, and he shall be the custodian of all files and records of the Board. The Executive Secretary shall be the administrator of water pollution control activities for the Board.

"(h) Technical, scientific, legal or other services shall be performed by personnel of other State agencies when requested by the Board, but the Board may employ and compensate with funds available therefor professional consultants, assistants and employees that may be necessary to carry out the provisions hereof and prescribe their powers and duties. The Board may request and shall receive the assistance of any State educational institution, experimental station, or other State agency.

"(i) To carry out the provisions of this Act, any agency of this State with responsibilities under the laws of this State for water pollution control, and for which appropriations are made in the biennial Appropriation Act, is hereby authorized to transfer to the Board out of such appropriations such annual amounts as may be mutually agreed upon by such an agency and by the Board, subject only to the concurrence of the Governor. In the event such transfers are insufficient to finance adequately the necessary activities of the Board, the Governor is authorized to transfer to the Board from the appropriations made to the Governor such amounts as he may determine. It is further provided that said Board is authorized to request, solicit, contract for, receive or accept money from any Federal or State agency, political subdivision or other legal entity to carry out the duties required of it by this Act. Such moneys as may be transferred under the provisions of this Subsection, and such gifts and grants as may be received by said Board, shall be deposited in the State Treasury in a special fund. Such moneys are hereby appropriated to said Board for any of the purposes set forth in this Act, including salaries, professional fees, wages, travel expenses, equipment, and other necessary expenses.

"(j) The Board shall make biennial reports in writing to the Governor and the Legislature, in which shall be included statements of its activities. All data collected by the Board shall be the property of the State of Texas.

"(k) Upon application of any person and upon payment of the fees prescribed therefor in the rules and regulations of the Board, the Board shall furnish certified copies of any of its proceedings or other official acts of record, or of any paper, map or document filed in the office of the Board. Such certified copies over the hand of the chairman or the Executive Secretary and the seal of the Board shall be admissible in evidence in any court or administrative proceeding, in the same manner and with like effect as the original would be."

Sec. 2. That Section 10(c) of the State Water Pollution Control Board Act, Chapter 42, page 156, Acts of the 57th Legislature, 1st Called Session, 1961, compiled as Section 10(c) of Article 7621d, Vernon's Texas Civil Statutes, is amended ⁶⁴ to read as follows:

"Section 10. (c) The Texas Water Development Board, the Texas Parks and Wildlife Department, the Texas State Department of Health, and the Railroad Commission of Texas are charged with the following specific duties in addition to any other duties imposed on such agencies elsewhere in this Act:

"(1) It shall be the duty of the Texas Water Development Board to investigate and ascertain those situations in which the underground waters of the State are being polluted or are threatened with pollution, and it shall report all findings to the Board together with its recommendations in regard thereto.

"(2) It shall be the duty of the Texas Parks and Wildlife Department and the employees thereof duly authorized by such Department to enforce the provisions of this Act insofar as any violation hereof occurs which affects aquatic life, birds and animals.

⁶⁴. Vernon's Ann.Civ.St. art. 7621d, § 10
(c).

"(3) The Texas State Department of Health shall continue to perform the research, training, planning and other functions presently being conducted by it in matters concerning pollution in cooperation with, or as a State agency contributing its services to, the Board.

"(4) The Railroad Commission of Texas shall be solely responsible for the control and disposition of waste and the abatement and prevention of pollution of water, both surface and subsurface, resulting from activities associated with the exploration, development or production of oil or gas. Said Commission may issue permits for the discharge of waste resulting from such activities."

Sec. 3. That Section 10 of the State Water Pollution Control Board Act, Chapter 42, page 156, Acts of the 57th Legislature, 1st Called Session, 1961, compiled as Section 10 of Article 7621d, Vernon's Texas Civil Statutes, is amended by adding⁶⁵ a new subsection thereto immediately following Section 10(c) (4), to be designated as Subsection 10(d) to read as follows:

"(d) Notwithstanding any provision of this Act, the Railroad Commission of Texas and the Texas Water Development Board shall respectively continue to exercise the authority granted to them in Chapter 82, Acts of the 57th Legislature, Regular Session, 1961, codified as Article 7621b, Vernon's Annotated Civil Statutes; and the Railroad Commission of Texas shall continue to and be solely responsible for the exercise of the authority granted it in Chapter 406, Acts of the 54th Legislature, Regular Session, 1955, codified as Article 6029a."

Sec. 4. Severability. If any Section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of this Act irrespective of the fact that any one or more portions be declared unconstitutional.

Sec. 5. Emergency. The fact that the urgent need for a coordinated effort among the Texas Water Pollution Control Board and the several State agencies responsible for control, prevention, and abatement of pollution of this State's public waters creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended; and said Rule is hereby suspended, and this Act shall take effect on September 1, 1965, and it is so enacted.

Passed by the House on May 3, 1965, by a non-record vote; House concurred in Senate amendments on May 27, 1965, by a non-record vote; passed by the Senate, as amended, on May 20, 1965: Yeas 31, Nays 0. Approved June 9, 1965. Effective Sept. 1, 1965.

65. Vernon's Ann.Civ.St. art. 7621d, § 10 (d).